

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 titled Medical Dispute Resolution of a Medical Fee Dispute, and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 1-4-05.

The IRO reviewed office visits, manual therapy techniques, electrical stimulation (unattended), ultrasound, therapeutic exercises, chiropractic manipulations, and miscellaneous surgical supplies.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO deemed that the office visits, manual therapy techniques, electrical stimulation, ultrasound, therapeutic exercises, and chiropractic manipulations from 1-5-04 to 2-11-04 were medically necessary. The IRO agreed with the previous adverse determination that the office visits, manual therapy techniques, electrical stimulation, therapeutic exercises, chiropractic manipulations, and miscellaneous surgical supplies from 2-13-04 to 7-6-04 were not medically necessary. Consequently, the requestor is not owed a refund of the paid IRO fee.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO Decision.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division. On 1-27-05, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

Code 95831 billed for date of service 1-13-04 had no EOB submitted by either party. Per Rule 133.307(e)(2)(B), the requestor did not submit convincing evidence of request for EOB and per Rule 133.307(e)(3)(B), the respondent did not submit the missing EOB as required. Therefore, no review and no reimbursement recommended.

Code 97140 billed for date of service 1-23-04 was denied as "O – denial after reconsideration". Since neither party submitted the original EOB, Medical Review Division cannot determine the initial denial reason; therefore, no review and no reimbursement recommended.

Codes 97140 and 97110 billed for date of service 2-9-04 were denied as "509 – correct coding initiative bundle guidelines indicate this code is a comprehensive component of another code on the same day." The respondent did not indicate what these two codes were bundled as required by Rule 133.304(c); therefore, this review will be per Rule 134.202. Reimbursement is recommended per Rule 134.202(c)(1) for code 97140 in the amount of $\$25.38 \times 125\% = \31.73 . No reimbursement recommended for code 97110 for the following reason: Recent review of disputes involving CPT code

97110 by the Medical Dispute Resolution section as well as analysis from recent decisions of the State Office of Administrative Hearings indicate overall deficiencies in the adequacy of the documentation of this code both with respect to the medical necessity of one-on-one therapy and documentation reflecting that these individual services were provided as billed. Moreover, the disputes indicate confusion regarding what constitutes “one-on-one”. Therefore, consistent with the general obligation set forth in Section 413.016 of the Labor Code, the Medical Review Division (MRD) has reviewed the matters in light of the Commission requirements for proper documentation. The MRD declines to order payment for code 97110 because the daily notes did not clearly delineate the severity of the injury that would warrant exclusive one-to-one treatment.

Code E0943 billed for date of service 2-11-04 was denied as “V – unnecessary medical”. However, this HCPCS code is invalid without an appropriate modifier per the DMEPOS fee schedule. Therefore, no review and no reimbursement recommended.

Code 99080-73 billed on dates of service 2-27-04, 3-12-04, 4-8-04, 5-7-04, and 7-6-04 was denied as unnecessary medical; however, per Rule 129.5, the TWCC-73 is a required report and not subject to an IRO review. The Medical Review Division has jurisdiction in this matter. The TWCC-73s met the requirements of the rule; therefore, recommend reimbursement of $\$15.00 \times 5 = \75.00 .

ORDER

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the Respondent to pay the unpaid medical fees outlined above as follows:

- In accordance with Medicare program reimbursement methodologies for dates of service on or after August 1, 2003 per Commission Rule 134.202 (c);
- In accordance with TWCC reimbursement methodologies regarding Work Status Reports for dates of service on or after August 1, 2003 per Commission Rule 134.202 (e)(8);
- plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this Order.

This Order is applicable to dates of service 1-5-04 through 7-6-04 as outlined above in this dispute.

This Order is hereby issued this 25th day of March 2005.

Dee Z. Torres
Medical Dispute Resolution Officer
Medical Review Division
Enclosure: IRO Decision

Envoy Medical Systems, LP

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Austin, Texas 78758

Fax 512/491-5145

IRO Certificate #4599

NOTICE OF INDEPENDENT REVIEW DECISION

February 28, 2005

Re: IRO Case # M5-05-1294-01 amended 3/14/05 due to assignment sheet error

Texas Worker's Compensation Commission:

Envoy Medical Systems, LP (Envoy) has been certified as an independent review organization (IRO) and has been authorized to perform independent reviews of medical necessity for the Texas Worker's Compensation Commission (TWCC). Texas HB. 2600, Rule133.308 effective January 1, 2002, allows a claimant or provider who has received an adverse medical necessity determination from a carrier's internal process, to request an independent review by an IRO.

In accordance with the requirement that TWCC assign cases to certified IROs, TWCC assigned this case to Envoy for an independent review. Envoy has performed an independent review of the proposed care to determine if the adverse determination was appropriate. For that purpose, Envoy received relevant medical records, any documents obtained from parties in making the adverse determination, and any other documents and/or written information submitted in support of the appeal.

The case was reviewed by a Doctor of Chiropractic, and who has met the requirements for TWCC Approved Doctor List or has been approved as an exception to the Approved Doctor List. He or she has signed a certification statement attesting that no known conflicts of interest exist between him or her and any of the treating physicians or providers, or any of the physicians or providers who reviewed the case for a determination prior to referral to Envoy for independent review. In addition, the certification statement further attests that the review was performed without bias for or against the carrier, medical provider, or any other party to this case.

The determination of the Envoy reviewer who reviewed this case, based on the medical records provided, is as follows:

Medical Information Reviewed

1. Table of disputed service
2. Explanation of benefits
3. Report 4/22/04 Obermiller

4. TWCC 69 4/22/04
5. Peer review 12/20/03 Dr. O'Kelly
6. Initial report 11/11/03 Dr. Walker
7. Follow up reports 2004, 2005
8. Daily treatment notes NIT
9. Prescription for DME NIT

History

The patient injured his lower back in ____ when he lifted a linen bag weighing about 100 pounds. He initially saw his chiropractor on 11/11/03. An MRI, a bone scan and an electrodiagnostic study have been performed. The patient has been treated with three epidural steroid injections, medication, manipulation and therapeutic exercises.

Requested Service(s)

Manual therapy technique, elect stimulation unattended, ultrasound, therapeutic exercises, chiropractic manual treatment-spinal, surgical supply misc, office visit 99213, office visit 99214 1/5/04 – 7/6/04

Decision

I agree with the carrier's decision to deny the requested services after 2/11/04, and I disagree with the denial of the requested services through 2/11/04.

Rationale

Based on the records provided for this review, it appears that the D.C. did everything he could to help the patient, but treatment failed to relieve the effects of the patient's injury. The records provided contain no evidence that treatment positively impacted the patient's functional recovery, or that treatment gave even temporary relief of symptoms, or that the patient received any significant objective benefit.

Based on the records, the patient was in a very deconditioned state, with a history of heart problems, diabetes, and gastric bypass surgery. X-rays and a lumbar MRI revealed multiple levels of degenerative changes, which complicated the patient's response to treatment.

An initial trial of conservative treatment was medically appropriate. Considering the complicating degenerative changes and lumbar sprain/strain injury, 12 weeks of treatment would be reasonable and necessary. The D.C. noted that the patient's condition plateaued during February 2004. No evidence was provided that treatment relieved the effects of the patient's injury or promoted the patient's recovery. Treatment after 2/11/04 was excessive and failed to be beneficial to the patient.

This medical necessity decision by an Independent Review Organization is deemed to be a Commission decision and order.

Daniel Y. Chin, for GP